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February 18, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: Subscriber List Information (SLI)
CC Docket No. 96-115
Ex Parte

Dear Ms. Salas:

On February 17th and 18th, Sidney White, Terence K. Orman and Ben Almond, all of BellSouth Corporation met in separate meetings with each of the following legal advisors concerning the referenced item: Kevin Martin of Commissioner Harold Furchtgott-Roth's office on February 17; Tom Power of Chairman William E. Kennard's office on February 18; and Kyle Dixon of Commissioner William K. Powell's office on February 18, 1999. In addition, a meeting was also held on February 18, 1999 with Suzanne Tetreault and Paula Silberthau of the Office of General Counsel. The attached document was used for discussion purposes.

Please associate this notification and accompanying material with the referred docket proceeding.

If there are any questions concerning this matter, please contact the undersigned.

Sincerely,

Ben G. Almond

Ben G. Almond
Vice President-Federal Regulatory

Attachment

cc: Kevin Martin
Tom Power
Kyle Dixon
Suzanne Tetreault

Paula Silberthau
Linda Kinney
Paul Gallant

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**Subscriber List Information (SLI)
CC Docket No. 96-115, Ex Parte
February 17 & 18, 1999**

BellSouth requests that the Commission support the following principles in deciding the outcome of this proceeding:

- **The Commission should not rate regulate SLI for the highly competitive Directory Publishing Business.**
 - **The States should maintain oversight and pricing responsibility.**
 - **SLI is a non-basic service, consistent with federal and state incentives and price cap concepts.**
- **The ILECs should not be a clearinghouse to provide listings from the CLECs to the Independent Publishers.**
 - **222(e) establishes an independent obligation on each telecom carrier to provide SLI.**
 - **SLI is not a UNE.**
 - **Substantial cost/admin burdens.**

I. Directory Publishing is a highly competitive industry. BellSouth's market pricing of SLI does not impede competition.

- A. Independent publishers can obtain SLI from sources other than the local exchange carriers. There exists little or not barriers to entry to become an Independent Publisher.
- B. There are 81 publishers producing competing directories in BellSouth's nine-State region, however, 23 of the 81 (28%) produce directories using sources other than BellSouth's SLI services.

II. BellSouth's SLI Service adheres to all obligations set forth in the 1996 Act.

- A. BellSouth already provides SLI to independent directory publishers on a timely and unbundled manner throughout the BellSouth region as evidenced by the Florida tariff which was provided during the ex parte contact to the Commission Staff on November 18, 1998.
- B. BellSouth's rates for SLI are nondiscriminatory and reasonable.
 - 1. BellSouth's rates are uniform throughout its in region states. BellSouth charges a basic price of \$.04 per listing. (See: BellSouth Directory Publishers Database service)
 - 2. The cost of SLI is a mere fraction of the revenues that independent publishers earn from advertising sales. (See: Value of SLI to Directory Publishers)
 - 3. Other regulatory agencies have determined that BellSouth's market based rates for SLI are reasonable.

III. CLECs, as telecommunications carriers, are required by the 1996 Act to provide subscriber listing information to directory publishers.

- A. The Act does not require ILECs to act as a clearinghouse for CLEC listings, it only requires that carriers provide the listings of its own customers. The Act requires that carriers, i.e., the CLECs provide the listings of its own customers.
- B. Some CLECs desire to control their listings as evidenced by the preference for non-disclosure agreements with BellSouth.

**DISCUSSION POINTS FOR CLEARINGHOUSE ISSUE FOR SUBSCRIBER LIST
INFORMATION (SLI)**

There has been little, if any, record made in this docket relating to the issue of BellSouth being a clearinghouse for the provision of any SLI other than that relating to customers for whom BellSouth provides service, and the NPRM did not raise such an issue for consideration. Thus, it would be inappropriate to include anything relating to clearinghouse functions in the order in CC Docket No. 96-115.

- 1) Section 222(e) establishes an independent obligation for each individual telecommunications carrier to provide their particular SLI. Nowhere in the Act is any particular carrier designated to be a clearinghouse for these functions, nor can any reasonable interpretation of the Act impose such a requirement on BellSouth.

Section 222(e) states that: "...a telecommunications carrier that provides telephone exchange service shall provide subscriber list information **gathered in its capacity as a provider of such service** (emphasis added) ...to any person upon request for the purpose of publishing directories..."

Based on the language in the Act, BellSouth must provide its SLI for its customers, and CLECs and independent local exchange carriers must provide their SLI for their local exchange subscribers. By contrast, BellSouth receives Competitive Local Exchange Carrier (CLEC) subscriber listing information from the CLEC only if the CLEC desires to provide such information to BellSouth, and only due to the fact that the CLEC is the provider of service for such customers. Thus, by definition BellSouth has not "gathered such information in its capacity as a provider of such service," and this information falls outside the scope of 222(e).

- 2) The most reliable source for SLI is the providing carrier. Even ADP expressed the preference to get SLI "from the source." Specifically, in its comments filed on 12/11/98, ADP stated that it desired to get SLI from "primary sources", which ADP defined as the LEC with whom the dial tone customer has subscribed. (p.2). The more entities SLI passes through, the more likely such information could become inaccurate and/or outdated. CLECs give BellSouth SLI at differing time intervals and regularity. BellSouth has no control over such CLEC practices. However, if the independent publisher deals directly with the CLEC, they can be assured to get the most current and accurate data possible, and that is what ADP has indicated is most important to them.
- 3) In addition to a myriad of complicating factors and issue, there would be substantial costs and administrative burdens in any clearinghouse arrangement. Extensive software programming would necessarily be required, and BellSouth anticipates that if a clearinghouse arrangement were to be pursued, such an arrangement would certainly generate additional regulatory proceedings relating to the many other complicated issues surrounding this concept. Adherence to the plain and clear language of 222(e) is the best course of action for the FCC to take in this case.
- 4) BellSouth's existing interconnection agreements with CLECs contain provisions that prohibit the release of a CLEC local exchange subscribers' SLI without the written consent of the CLEC. CLECs insist on this provision to ensure that they are the only entity that can disclose this information. BellSouth also has similar agreements with independent local exchange companies that contain similar restrictions on passing such information to third parties. Any attempt to compel BellSouth to provide CLEC and/or ICO SLI to third parties would interfere with preexisting contracts between these parties.

BellSouth Directory Publishers Database Service

BellSouth makes its directory listings for all state jurisdictions available at regionally uniform prices on a non-discriminatory and unbundled basis via the Company's Directory Publishers Database Service (DPDS).

Description of what is provided under each of the unbundled options is detailed in BellSouth's DPDS tariff for the state of Florida, which is attached.

<u>Unbundled Service Options</u>	<u>Rate</u>
1. Each Single Central Office NPA-NXX Listing File Requested; for use to publish	
a) Single edition of a printed directory, Per Listing	\$.04
b) Multiple editions of printed directories, Per Listing	.12
c) CD ROM directory, Per Listing	.18
A. Daily Updates ¹	
a) Each Updated Listing Provided	1.50
2. Each NPA-NXX Listing File plus 11 Monthly Refresh Files requested for use to publish ²	
a) Single edition of a printed directory, Per Listing	.16
b) Multiple editions of printed directories, Per Listing	.48
3. Sort Extract	
a) Per Listing	.10
4. New Connect Report	
a) Per Listing Provided	2.00
5. Weekly Business Activity Report (WBAR)	
a) Per Central Office NPA-NXX Listing (for all listings Central Office requested)	.006

Note 1: The cost of providing update service is a great deal higher than the cost of providing initial listing information because the primary components of cost associated with providing update service are labor intensive. Programming, operations, billing and administrative personnel costs involved with providing update service are different from (greater than) costs to provide initial listing information.

Note 2: This option, though not specifically described in BellSouth's DPDS Florida tariff, provides a base file for each of 12 contiguous months and is available in all BellSouth states, including Florida.

Value of SLI to Directory Publisher

Louisiana Directory Example

1. White Pages in sample directory contain about 150,000 listings
2. Publisher pays BellSouth \$.04 per listing

Publisher's Listing Cost = (150,000 listings) x (\$.04/listing) = **\$6,000**

1. 375 Yellow Pages in directory
2. Each 8 inch page contains 3 columns

Directory has (375 pages) x (8 inches/page) x (3 columns) = **9,000 print inches**

1. Assuming publisher charges \$300 per inch (some charge more, some less),
2. Approximately 30% of the Yellow Pages content is Advertising, and thus

Estimate of

Publisher's Advertising

Revenue for Directory = (9,000 Inches) x (\$300/inch) x (30% of contents) = **\$810,000**

BellSouth's SLI cost as a % of Publisher's Revenue = (\$6,000) / (\$810,000) < 1%

Publisher's Revenue as a % of BellSouth's \$6,000 cost object = 13,500%

Florida Directory Example

1. White Pages in sample directory contain about 200,000 listings
2. Publisher pays BellSouth \$.04 per listing

Publisher's Listing Cost = (200,000 listings) x (\$.04/listing) = **\$8,000**

1. Yellow Pages in directory
2. Each 8 inch page contains 3 columns

Directory has (501 pages) x (8 inches/page) x (4 columns) = **16,032 print inches**

1. Assuming publisher charges \$300 per inch (some charge more, some less),
2. Approximately 30% of the Yellow Pages content is Advertising, and thus

Estimate of

Publisher's Advertising

Revenue for Directory = (16,032 Inches) x (\$300/inch) x (30% of contents) = **\$1,442,880**

BellSouth's SLI cost as a % of Publisher's Revenue = (\$8,000) / (\$1,442,880) < 1%

Publisher's Revenue as a % of BellSouth's \$8,000 cost object = 18,036%